

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

CARLOS VELASCO,

Defendant.

CASE NO. 8:06CR417

AMENDED TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) in this case. The Defendant has filed a motion for downward departure or deviation and objections to the PSR and a supporting brief (Filing Nos. 40, 41).¹ See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Defendant objects to the lack of a downward adjustment for a minimal role in the offense in ¶ 30 of the PSR. The objection will be heard at sentencing. The Defendant bears the burden of proof by a preponderance of the evidence.

IT IS ORDERED:

1. The Defendant's objections to the PSR (Filing No. 40) will be heard at sentencing;
2. Otherwise, the parties are notified that my tentative findings are that the PSR is correct in all respects;

¹Filing No. 40 is identified in the caption and docket description only as a motion for departure or deviation. For this reason, the objections were not referenced in the original Tentative Findings.

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final;

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

6. The Defendant's motion for downward departure or deviation (Filing No. 40) will be heard at sentencing.

Dated this 21st day of August, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge